



DIVISION OF
ENFORCEMENT

**UNITED STATES
SECURITIES AND EXCHANGE
COMMISSION**

100 F Street, N.E.
Washington, D.C. 20549

Paul W. Kisslinger
Assistant Chief Litigation Counsel

Telephone (202) 551-4427
Facsimile (202) 772-9292
kisslingerp@sec.gov

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By ECF

The Honorable Dora L. Irizarry
United States District Court
225 Cadman Plaza East
Brooklyn, New York 11201

Re: *Securities and Exchange Commission v. Spongetech Delivery Systems, et al.*,
10-cv-2031-DLI-JMA (E.D.N.Y.)

Your Honor:

Plaintiff Securities and Exchange Commission ("SEC") writes to address several issues concerning proposed relief defendants, Blue Star Media and BusinessTalkRadioNet, Inc. (collectively, "BTRN").

First, the SEC and proposed intervenor, Solution Funding, LLC, are in productive discussions concerning a proposed claims administration process as to BTRN. *See* Solution Funding's letter to the Court dated February 22, 2012 [Dkt. 211]. Assuming that Solution Funding and the SEC are able to agree on proposed terms in the next several days, we will then forward the draft order to counsel for the defendants, BTRN, and the U.S. Bankruptcy Trustee for their comments. The SEC then will submit the proposed order to the Court for its review. As Solution Funding has indicated that it will withdraw its motion to intervene following the Court's approval of an acceptable claims administration process (*see id.*), and the Court has agreed in principle with this approach (*see* March 1, 2012 Minute Order), the SEC requests that the briefing schedule for the motion to intervene be postponed by thirty days to allow for vetting of the claims process, with the SEC's opposition due on April 16, 2012, and Solution Funding's reply due on April 26, 2012.

Second, the SEC wanted to bring to the Court's attention pending matters in a private lawsuit that bear on issues in this case as pertaining to BTRN. Solution Funding has filed an action against BTRN in the Delaware Court of Chancery, *Solution Funding, LLC v. BusinessTalkRadio.Net Acquisitions, et al.*, C.A. No. 7180-VCG (GCD). In Count II of its verified complaint, Solution Funding demanded the appointment of a receiver over the assets of

- Page 2 -

BTRN, per a prior financing agreement allegedly reached with BTRN. The Delaware court has not yet ruled on Solution Funding's motion to appoint a receiver, and that issue apparently is scheduled to be heard on March 26, 2012. The SEC submits that if the Delaware court appoints a receiver charged with winding down and selling BTRN under its supervision, then there would be no need for the SEC to undertake a separate, and likely duplicative appraisal process, as directed by the Court at the February 17, 2012 hearing. *See* Transcript of Hearing at 26. The SEC thus respectfully asks that the Court stay its prior determination until the Delaware court decides the motion to appoint a receiver.

Respectfully submitted,

/s/ Paul W. Kisslinger